

J. Melody



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: GTE Telecom Inc.--Reconsideration

File: B-222459.4

Date: May 14, 1987

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### DIGEST

1. Where protest to General Accounting Office (GAO) was filed more than 10 working days after basis for it was known to the protester, so that the protest was untimely, fact that a copy of the protest was filed with contracting agency within the 10-day period is irrelevant, since filing of a protest with GAO means receipt in our Office.

2. While there is nothing objectionable in a protester -- pursuing additional, more detailed, information to support its arguments, doing so does not justify delaying filing a protest based on the grounds already known.

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### DECISION

GTE Telecom Inc. requests that we reconsider our April 16, 1987, dismissal of its protest as untimely under Corps of Engineers request for proposals (RFP) No. DACA51-86-R-0015, to acquire telecommunications equipment. We affirm the dismissal.

Under our Bid Protest Regulations, a protest must be filed with the General Accounting Office or the contracting agency no later than 10 working days after the basis of protest was or should have been known. 4 C.F.R. § 21.2(a)(2) (1986). Here, the award was made to another firm on February 26, and GTE was given a debriefing on the award on March 26. Based on this debriefing, GTE submitted an April 6 letter to our Office, which we received April 15, purporting to put the government on notice that a protest would be forthcoming after confirming information was obtained, and further stating that the protest was based on four allegations: the Corps failed to conduct meaningful discussions with GTE; the Corps failed to disclose significant information; the Corps attempted a technical leveling of the competitors' proposals; and the Corps improperly made award based on price despite inadequate information.

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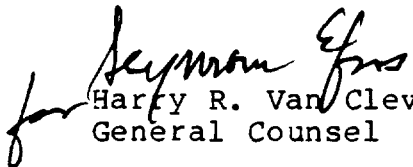
Since the April 6 letter raised four specific alleged deficiencies in the award, we considered it clear that GTE was in possession of sufficient information--whether received at or before the debriefing--to proceed with its protest, and that awaiting confirming information thus was not a proper basis to delay filing a protest. Because we did not receive the April 6 letter until April 15, more than 10 working days after the March 26 debriefing, we found the protest grounds untimely raised.

GTE requests reconsideration for two reasons. First, GTE states that it sent a copy of its April 6 letter by overnight mail to the procurement official designated in the RFP, and seems to imply that this satisfied the 10-day filing requirement. (April 7 is within 10 days after March 26). We disagree.

While a copy of this letter would serve to notify the Corps of a protest to our Office (or an intent to protest in the future), GTE has presented no evidence (for example, a delivery receipt) that it in fact sent a copy of the letter to the Corps by overnight mail or, if so, that the Corps ever received it. In any event, an agency's receipt, within the 10-day period, of a copy of a protest to our Office that we do not receive until after the filing period expires does not serve to make the protest timely, since the timeliness of a protest to our Office is measured by when we receive the filing. 4 C.F.R. § 21.2(b); see Data Processing Services, B-225443.2, Dec. 18, 1986, 86-2 C.P.D. ¶ 683.

GTE's second basis for reconsideration is merely a restatement of the view, expressed in its April 6 letter, that it needed information confirming its protest bases before it could file a protest. As we determined in dismissing the protest, however, GTE clearly was aware of the reasons it believed the award was improper, apparently based on the debriefing. See Dayton T. Brown, Inc.--Reconsideration, B-223774.4, Jan. 21, 1987, 87-1 C.P.D. ¶ 75.

As GTE has not shown that dismissal of its protest was based an error of law or fact, we affirm the dismissal.

  
Harry R. VanCleve  
General Counsel